

## FINAL STATEMENT OF REASONS

### UPDATED INFORMATIVE DIGEST

There have been no changes in applicable laws or to the effect of the proposed regulations from the laws and effects described in the Notice of Proposed Action.

The California Horse Racing Board (Board) adopted Board Rule 1501, Worker's Compensation Insurance Required, and Board Rule 1502, Program Training Prohibited, at the October 22, 2020 regular Board meeting.

### LOCAL MANDATE DETERMINATION

The adoption of Board Rule 1501 and Board Rule 1502 does not impose any mandate on local agencies or school districts.

The adoption of Board Rule 1501 and Board Rule 1502 has no significant adverse economic impact on small business.

The adoption of Board Rule 1501 and Board Rule 1502 has no significant adverse economic impact on business.

### SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE ORIGINAL NOTICE PERIOD OF AUGUST 14, 2020, TO SEPTEMBER 28, 2020.

Written comments were received during the original notice period of August 14, 2020, through September 28, 2020.

Comment from G. Michael Lyon, Program Administrator and Board Secretary for Post Time Self Insurance Group and Finish Line Self Insurance Group, Inc. (PTSIG & FLSIG):

PTSIG and FLSIG believes that the prohibition on program training needs to be more specific and start at the stable gate, as soon as the horse has been admitted entrance to the backstretch, and not at the starting gate.

PTSIG and FLSIG are of the opinion that the proposed amendment is not inclusive enough to address the issue of program training. The main goal is to protect the health and safety of horse and rider, which will benefit all stakeholders in the California racing industry. The duty to protect the horse and rider starts with the Board and flows to the trainer, the ultimate guardian of the horse, whose decisions about training, workouts, rest and nutrition will affect the performance of the horse through its racing career. This responsibility is so great it cannot be delegated through program training and the prohibition on program training must be specific and begin at the stable gate, when the horse is first placed in the barn of a Board licensed trainer in good standing.

Program training is a problem that is not confined to California. Licensees in other jurisdictions have been frustrated at suspected cases of program training and wonder

what the purpose of a license suspension or revocation if a trainer can play the “paper game.”

There are many training activities that take place prior to a trainer entering a horse into a race. It is important to hold the trainer accountable from the moment that the horse is admitted through the stable gate and housed in a trainer’s barn.

Program training is already a prohibited activity under Board rules and regulations, but the rules and regulations need to be updated to clarify the definition of program training.

PTSIG and FLSIG’s prime objective is risk management and providing affordable workers’ compensation insurance to licensed trainers in California. While the proposed amendment to Board Rule 1502 addresses the prohibition of program training on race day, it needs to be extended to cover morning workouts as well as all training and care for the horse, including nutritional support, from the onset of arrival at the stable gate to the trainers barn.

Exercise riders, in the morning workouts, account for a large percentage of injuries in our programs, with 45% of total injuries in 2017, 39% in 2018, and 38% in 2019. PTSIG and FLSIG proposes that Board Rule 1502(b)(1) be amended to state that program training commences when a horse is admitted through the stable gate, to a trainer’s barn and the trainer does not engage in the actual training of the horse either personally or through an assistant trainer.

Response:

The proposed amendment to Board Rule 1502 prohibits program training and any licensee engaged in program training may be suspended or fined by the stewards. Board Rule 1502 defines when program training occurs and what constitutes actual training. The Board has determined the proposed amendment to Board Rule 1502 is adequate to address the issue of program training and that any licensee who engages in program training will be held liable for their actions.

Comment from Alan Balch, Executive Director for California Thoroughbred Trainers (CTT):

CTT agrees with the comments submitted by PTSIG dated September 21, 2020. CTT wants to call the Board’s attention to Rule 1597, Association to Maintain Records of Horses on its Grounds. It is important for the purposes of proper administration of the Board’s workers’ compensation rules, that the Associations participate in properly identifying horses arriving and placement only with trainers having verified workers’ compensation insurance, including the period from their arrival until entry in a race.

PTSIG has made available on-line to racing associations a dynamic, continually updated record of all its member trainers in California. We are particularly concerned that track managements and stable offices have systems in place to verify that horses are only stabled with trainers whose workers’ compensation is current, and that all trainers to whom any horses are assigned are currently insured.

We don't have a specific proposal of how to amend or add to the proposed language to be certain this responsibility is observed but trust that CHRB staff and counsel can properly advise the Board.

Response:

The Board is proposing to amend Board Rule 1501 to simply add subsection (b) that was originally found in Board Rule 1502, and is being moved for clarity, as it relates to worker compensation insurance requirements. Board Rule 1501 states no person may be licensed as a trainer, owner, trainer-driver, or in any other capacity in which such person acts as the employer of any other licensee at any authorized race meeting, unless they have worker's compensation insurance. If their worker's compensation insurance is cancelled or terminated, their license would be suspended and grounds for revocation of the license. CTT's comment is regarding Board Rule 1597 and is not applicable to the proposed amendment to Board Rule 1501 and Board Rule 1502.

SUMMARY AND RESPONSE TO COMMENTS RECEIVED AT THE OCTOBER 22, 2020 REGULATORY HEARING.

Summary of comment one, from Alan Balch, CTT, page 133 of transcript:

Jockeys and all backstretch personnel are covered by workers' compensation in the State of California and specifies that employees have workers' compensation for all their employees, specifically jockeys and trainers, and employees of all trainers.

Response to comment:

The Board agrees. The Board is proposing to amend Board Rule 1501 to simply add subsection (b) that was originally found in Board Rule 1502, and is being moved for clarity, as it relates to worker compensation insurance requirements. Board Rule 1501 states no person may be licensed as a trainer, owner, trainer-driver, or in any other capacity in which such person acts as the employer of any other licensee at any authorized race meeting, unless they have worker's compensation insurance. If their worker's compensation insurance is cancelled or terminated, their license would be suspended and grounds for revocation of the license.

ALTERNATIVE DETERMINATION

The Board has determined that no reasonable alternative would be more effective in carrying out the purpose for which the regulation was proposed, would be as effective and less burdensome to affected private persons than the proposed regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The amendment to Board Rule 1501 will add a subsection (b) to require that no licensee, for the purpose of avoiding the requirements for workmen's compensation insurance, shall place any horse in the care of or attendance of any other person. This is necessary as this subsection was originally found in Board Rule 1502 but is being moved for clarity, as it relates to worker compensation insurance requirements. The amendment to Board Rule 1502 will clarify that program training is prohibited, and any licensee who engages in program training may be suspended or

fined. This is necessary to clarify that any licensee who engages in program training will be held liable for their actions.

The Board invited interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period. No alternatives were proposed.

No alternatives that would lessen any adverse economic impact on small business were proposed.